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7 BIMBO BAKERIES USA, INC.

8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 ALEX ANG and LYNN STREIT, individually)	Case No. 13 Civ. 1196 (WHO)
13 and on behalf of all others similarly situated,)	
14 Plaintiffs,)	RESPONSE OF DEFENDANT BIMBO
15 v.)	BAKERIES USA, INC. TO PLAINTIFFS'
16 BIMBO BAKERIES USA, INC.,)	FIRST SET OF REQUESTS FOR
17 Defendant.)	PRODUCTION OF DOCUMENTS
18)	
19)	
20)	

1 PROPOUNDING PARTY: PLAINTIFFS ALEX ANG and LYNN STREIT
 2 RESPONDING PARTY: DEFENDANT BIMBO BAKERIES USA, INC.
 3 SET NO.: ONE
 4

5 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, defendant Bimbo
 6 Bakeries USA, Inc. ("BBUSA") hereby serves these responses and objections to the plaintiffs'
 7 requests for production of documents.

8 GENERAL OBJECTIONS

9 1. BBUSA objects to the definitions and instructions in the plaintiffs' requests for
 10 production of documents to the extent that they exceed the requirements of the Federal Rules of
 11 Civil Procedure.

12 2. BBUSA objects to each of the plaintiffs' discovery requests to the extent that it
 13 purports to seek information or documents protected from discovery or disclosure by the attorney-
 14 client privilege, the attorney work product doctrine, the settlement or mediation privilege, the
 15 joint defense or common interest doctrines or by any other applicable privilege, immunity or
 16 protective doctrine. BBUSA intends to and does invoke these privileges and immunities with
 17 respect to all covered information and documents. Should BBUSA provide any privileged or
 18 protected information or documents during the course of this litigation, unless expressly stated
 19 otherwise, such disclosure is inadvertent and shall not constitute a waiver of any applicable
 20 privilege or immunity, or of any other ground for objecting, or of BBUSA's right to object during
 21 this litigation or otherwise to the use of such information or documents.

22 3. BBUSA objects to each of the plaintiffs' discovery requests to the extent that it
 23 seeks information or documents that, if disclosed, would violate third-party privacy rights or
 24 third-party confidentiality rights (contractual, common law, statutory or otherwise) or any rights
 25 that prohibit BBUSA from disclosing third-party information or documents without consent.

26 4. BBUSA objects to each of the plaintiffs' discovery requests to the extent that it
 27 purports to require BBUSA to disclose information that is commercially sensitive, confidential,
 28 proprietary and/or reflective of trade secrets, including, but not limited to, BBUSA's

1 commercially sensitive, confidential and proprietary information and information that is
 2 prohibited from disclosure by contract, agreement, understanding, custom, trade usage, statute,
 3 regulation, privacy law and/or any other provision of law.

4 5. BBUSA objects to each of the plaintiffs' discovery requests to the extent that it is
 5 overbroad, unduly burdensome or seeks the disclosure of information or documents neither
 6 relevant to the subject matter of the pending action nor reasonably calculated to lead to the
 7 discovery of admissible evidence in this action.

8 6. BBUSA objects to each request on the basis that the plaintiffs have failed to satisfy
 9 their obligation to meet and confer with BBUSA about the discovery required and sought in this
 10 litigation prior to propounding discovery on BBUSA, as required by Federal Rule of Civil
 11 Procedure 26.

12 7. Discovery in this litigation is ongoing and BBUSA's responses are made only on
 13 the basis of the information that is currently known or reasonably available to it. These responses
 14 are made without prejudice to BBUSA's right to introduce additional evidence at the time of trial
 15 or to supplement its responses, as appropriate, as discovery proceeds and after discovery has been
 16 completed. BBUSA also reserves the right to make any use of, or to introduce in any hearing or
 17 at trial, documents or information subsequently produced or disclosed in this action.

18 8. The disclosure of any documents or information by BBUSA in response to this
 19 discovery is made subject to all objections as to competence, relevance, materiality, admissibility
 20 and any other objections on any grounds that would require exclusion of the documents or
 21 information, or any portion thereof, if such documents or information were offered into evidence.
 22 BBUSA expressly reserves all such objections and grounds.

23 **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

24 Subject to and without waiving the above General Objections, BBUSA hereby responds to
 25 each request for production as follows:

26 **REQUEST NO. 1:**

27 All documents relating to the labelling and packaging of the Purchased Products or the
 28 Substantially Similar Products.

RESPONSE TO REQUEST NO. 1:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because the documents that it seeks are not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents responsive to this request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation.

REQUEST NO. 2:

All documents relating to compliance with food labelling requirements in the FDCA, FDA regulations, or the Sherman Law.

RESPONSE TO REQUEST NO. 2:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, overbroad, unintelligible and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because the documents that it seeks are not limited in scope or time. Since BBUSA complies with food labeling requirements, this Request could literally require production of every document in BBUSA's possession. If that is not what the Request is seeking, then it is unclear what the Request means by "compliance with food labeling requirements." BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents.

1 **REQUEST NO. 3:**

2 All documents relating to Bimbo policies, guidelines, or protocols relating to compliance
3 with food labelling requirements in the FDCA, FDA regulations, or the Sherman Law.

4 **RESPONSE TO REQUEST NO. 3:**

5 BBUSA hereby incorporates the above General Objections as if stated herein in full.
6 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
7 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
8 reasonably calculated to lead to the discovery of admissible evidence in this action because the
9 documents that it seeks are not limited in scope or time. BBUSA also objects to this Request on
10 the grounds that it seeks confidential, proprietary and/or privileged documents protected from
11 disclosure by various privileges, including the attorney-client and attorney work product
12 privileges. BBUSA will not produce such privileged documents. Subject to and without waiving
13 any of the foregoing objections, BBUSA responds that it will produce all unprivileged policy
14 documents from the Class Period in its possession, custody or control, if any such documents
15 exist, which relate to the provisions of the FDCA, FDA regulations, and the Sherman law that are
16 at issue in this lawsuit.

17 **REQUEST NO. 4:**

18 All communications with the FDA relating to the labelling or packaging of products.

19 **RESPONSE TO REQUEST NO. 4:**

20 BBUSA hereby incorporates the above General Objections as if stated herein in full.
21 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
22 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
23 reasonably calculated to lead to the discovery of admissible evidence in this action because the
24 documents that it seeks are not limited in scope or time. BBUSA also objects to this Request on
25 the grounds that it seeks confidential, proprietary and/or privileged documents protected from
26 disclosure by various privileges, including the attorney-client and attorney work product
27 privileges. BBUSA will not produce such privileged documents. Subject to and without waiving
28 the foregoing objections, BBUSA responds that it will produce all unprivileged documents

responsive to this request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

REQUEST NO. 5:

All documents relating to compliance with food labelling requirements in the FDCA, FDA regulations, or the Sherman Law that relate to the Purchased Products or the Substantially Similar Products.

RESPONSE TO REQUEST NO. 5:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because the documents that it seeks are not limited in scope or time. Since BBUSA complies with food labeling requirements, this Request could literally require production of every document in BBUSA's possession. If that is not what the Request is seeking, then it is unclear what the Request means by "compliance with food labeling requirements." BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. In addition, BBUSA objects that this Request is duplicative of Request No. 2.

REQUEST NO. 6:

All documents relating to Bimbo policies, guidelines, or protocols relating to compliance with food labelling requirements in the FDCA, FDA regulations, or the Sherman Law that relate to the Purchased Products or the Substantially Similar Products.

RESPONSE TO REQUEST NO. 6:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because the

1 documents that it seeks are not limited in scope or time. BBUSA also objects to this Request on
2 the grounds that it seeks confidential, proprietary and/or privileged documents protected from
3 disclosure by various privileges, including the attorney-client and attorney work product
4 privileges. BBUSA will not produce such privileged documents. In addition, BBUSA objects
5 that this Request is duplicative of Request No. 3. Subject to and without waiving the foregoing
6 objections, BBUSA responds that it will produce all unprivileged documents responsive to this
7 request that relate to the products during the Class Period allegedly purchased by the plaintiffs
8 that are still at issue in this litigation.

9 **REQUEST NO. 7:**

10 All documents relating to use of the phrase "100% whole wheat" on food labels or
11 packaging.

12 **RESPONSE TO REQUEST NO. 7:**

13 BBUSA hereby incorporates the above General Objections as if stated herein in full.
14 BBUSA further objects that this Request is vague, ambiguous, unintelligible, overbroad and
15 unduly burdensome and seeks documents that are neither relevant to the subject matter of the
16 pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this
17 action because it is not limited in scope or time. BBUSA also objects to this Request on the
18 grounds that it seeks confidential, proprietary and/or privileged documents protected from
19 disclosure by various privileges, including the attorney-client and attorney work product
20 privileges. BBUSA will not produce such privileged documents. Subject to and without waiving
21 the foregoing objections, BBUSA responds that it will produce all unprivileged documents
22 responsive to this request that relate to the products during the Class Period allegedly purchased
23 by the plaintiffs that are still at issue in this litigation, if any such documents exist.

24 **REQUEST NO. 8:**

25 All documents relating to use of the phrase "100% whole wheat" on Sara Lee Classic
26 100% Whole Wheat Bread, Sara Lee 100% Whole Wheat Bread, or any products listed in
27 paragraph 203 of the SAC.
28

RESPONSE TO REQUEST NO. 8:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because it is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents from the Class Period responsive to this request relating to the products purchased by the plaintiffs, if any such documents exist.

REQUEST NO. 9:

Documents sufficient to show all ingredients in Sara Lee Classic 100% Whole Wheat Bread, Sara Lee 100% Whole Wheat Bread, and all products listed in paragraph 203 of the SAC.

RESPONSE TO REQUEST NO. 9:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because it is not limited in scope or time. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents responsive to this request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation.

REQUEST NO. 10:

All documents relating to the use of the statement on food labels or packaging that a product is a "good source" or "excellent source" of whole grain or whole grains.

RESPONSE TO REQUEST NO. 10:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because it is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents responsive to this request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

REQUEST NO. 11:

All documents relating to the use of the statement on Sara Lee Classic 100% Whole Wheat Bread, Sara Lee 100% Whole Wheat Bread, Sara Lee Soft & Smooth Whole Wheat White Bread, and Sara Lee Soft & Smooth Whole Wheat Bread that they are either a “good source” or “excellent source” of whole grain or whole grains.

RESPONSE TO REQUEST NO. 11:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because it is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents responsive to this request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at

1 issue in this litigation, if any such documents exist.

2 **REQUEST NO. 12:**

3 All documents relating to the use of the statement on Thomas' Plain Bagel Thins that it is
4 an "excellent source" of fiber.

5 **RESPONSE TO REQUEST NO. 12:**

6 BBUSA hereby incorporates the above General Objections as if stated herein in full.
7 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
8 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
9 reasonably calculated to lead to the discovery of admissible evidence in this action. BBUSA also
10 objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged
11 documents protected from disclosure by various privileges, including the attorney-client and
12 attorney work product privileges. BBUSA will not produce such privileged documents. Subject
13 to and without waiving the foregoing objections, BBUSA responds that it will produce all
14 unprivileged documents in its possession, custody or control that are responsive to this Request, if
15 any such documents exist.

16 **REQUEST NO. 13:**

17 All documents relating to the use of the Heart-Check Mark on food labels or packaging.

18 **RESPONSE TO REQUEST NO. 13:**

19 BBUSA hereby incorporates the above General Objections as if stated herein in full.
20 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
21 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
22 reasonably calculated to lead to the discovery of admissible evidence in this action because it is
23 not limited in scope or time. This Request literally seeks the production of all documents in any
24 way relating to a Heart-Check Mark. BBUSA also objects to this Request on the grounds that it
25 seeks confidential, proprietary and/or privileged documents protected from disclosure by various
26 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
27 produce such privileged documents. Subject to and without waiving the foregoing objections,
28 BBUSA responds that it will produce all unprivileged documents responsive to this request that

1 relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at
2 issue in this litigation, if any such documents exist.

3 **REQUEST NO. 14:**

4 All documents relating to the use of the Heart-Check Mark on Thomas' Plain Bagel Thins
5 or any products listed in paragraph 226 of the SAC.

6 **RESPONSE TO REQUEST NO. 14:**

7 BBUSA hereby incorporates the above General Objections as if stated herein in full.
8 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
9 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
10 reasonably calculated to lead to the discovery of admissible evidence in this action because it is
11 not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks
12 confidential, proprietary and/or privileged documents protected from disclosure by various
13 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
14 produce such privileged documents. Subject to and without waiving the foregoing objections,
15 BBUSA responds that it will produce all unprivileged documents from the Class Period in its
16 possession, custody or control that are responsive to this Request, if any such documents exist.

17 **REQUEST NO. 15:**

18 All documents relating to the Heart-Check Mark program, including all communications
19 with the American Heart Association.

20 **RESPONSE TO REQUEST NO. 15:**

21 BBUSA hereby incorporates the above General Objections as if stated herein in full.
22 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
23 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
24 reasonably calculated to lead to the discovery of admissible evidence in this action because it
25 does not define the "Heart-Check Mark program" and is not limited in scope or time. In addition,
26 BBUSA objects that this Request is duplicative of Request No. 13 and seeks documents that are
27 publicly available and/or equally available to the plaintiffs. BBUSA also objects to this Request
28 on the grounds that it seeks confidential, proprietary and/or privileged documents protected from

1 disclosure by various privileges, including the attorney-client and attorney work product
2 privileges. BBUSA will not produce such privileged documents. Subject to and without waiving
3 the foregoing objections, BBUSA responds that it will produce all unprivileged documents from
4 the Class Period relating to the products still at issue in this litigation in its possession, custody or
5 control that are responsive to this Request, if any such documents exist.

6 **REQUEST NO. 16:**

7 All documents relating to the Heart-Check Mark certification process, including costs of
8 certification.

9 **RESPONSE TO REQUEST NO. 16:**

10 BBUSA hereby incorporates the above General Objections as if stated herein in full.
11 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
12 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
13 reasonably calculated to lead to the discovery of admissible evidence in this action. In addition,
14 BBUSA objects that this Request is duplicative of Request No. 15 and seeks documents that are
15 publicly available and/or equally available to the plaintiffs. BBUSA also objects to this Request
16 on the grounds that it seeks confidential, proprietary and/or privileged documents protected from
17 disclosure by various privileges, including the attorney-client and attorney work product
18 privileges. BBUSA will not produce such privileged documents. Subject to and without waiving
19 the foregoing objections, BBUSA responds that it will produce all unprivileged documents from
20 the Class Period relating to the products still at issue in this litigation in its possession, custody or
21 control that are responsive to this Request, if any such documents exist.

22 **REQUEST NO. 17:**

23 All documents relating to the Heart-Check Mark certification of Thomas' Plain Bagel
24 Thins or any products listed in paragraph 226 of the SAC, including costs of certification.

25 **RESPONSE TO REQUEST NO. 17:**

26 BBUSA hereby incorporates the above General Objections as if stated herein in full.
27 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
28 and seeks documents that are neither relevant to the subject matter of the pending litigation nor

1 reasonably calculated to lead to the discovery of admissible evidence in this action. In addition,
2 BBUSA objects that this Request is duplicative of Requests No. 13, No. 15 and No. 16 and seeks
3 documents that are publicly available and/or equally available to the plaintiffs. BBUSA also
4 objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged
5 documents protected from disclosure by various privileges, including the attorney-client and
6 attorney work product privileges. BBUSA will not produce such privileged documents. Subject
7 to and without waiving the foregoing objections, BBUSA responds that it will produce all
8 unprivileged responsive documents in its possession, custody or control that relate to products
9 during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation,
10 if any such documents exist.

11 **REQUEST NO. 18:**

12 All documents relating to the use of paid endorsements on the labelling or packaging of
13 food products.

14 **RESPONSE TO REQUEST NO. 18:**

15 BBUSA hereby incorporates the above General Objections as if stated herein in full.
16 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
17 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
18 reasonably calculated to lead to the discovery of admissible evidence in this action, as it is not
19 limited in time or scope and does not define "paid endorsements." BBUSA also objects to this
20 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
21 protected from disclosure by various privileges, including the attorney-client and attorney work
22 product privileges. BBUSA will not produce such privileged documents. Subject to and without
23 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
24 documents in its possession, custody or control that are responsive to this Request and that relate
25 to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue
26 in this litigation, if any such documents exist.

27 **REQUEST NO. 19:**

28 All documents relating to the use of statements on food products that they are "fresh,"

1 “baked daily,” or “baked fresh daily.”

2 **RESPONSE TO REQUEST NO. 19:**

3 BBUSA hereby incorporates the above General Objections as if stated herein in full.
4 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
5 burdensome and seeks documents that are neither relevant to the subject matter of the pending
6 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
7 This Request seeks the production of documents relating to any and all “food products,” which
8 are undefined, at any time and seeks documents relating to statements that are not at issue in this
9 litigation. BBUSA also objects to this Request on the grounds that it seeks confidential,
10 proprietary and/or privileged documents protected from disclosure by various privileges,
11 including the attorney-client and attorney work product privileges. BBUSA will not produce such
12 privileged documents. Subject to and without waiving the foregoing objections, BBUSA
13 responds that it will produce all unprivileged documents responsive to this request that relate to
14 the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in
15 this litigation.

16 **REQUEST NO. 20:**

17 All documents relating to the use of statements in Entenmann’s Soft’ees or any products
18 listed in paragraph 215 of the SAC that they are “fresh,” “baked daily,” or “baked fresh daily.”

19 **RESPONSE TO REQUEST NO. 20:**

20 BBUSA hereby incorporates the above General Objections as if stated herein in full.
21 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
22 burdensome and seeks documents that are neither relevant to the subject matter of the pending
23 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
24 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
25 privileged documents protected from disclosure by various privileges, including the attorney-
26 client and attorney work product privileges. BBUSA will not produce such privileged documents.
27 Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all
28 unprivileged documents responsive to this request that relate to the products during the Class

1 Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such
2 documents exist.

3 **REQUEST NO. 21:**

4 All documents related to the use of added coloring in bread products.

5 **RESPONSE TO REQUEST NO. 21:**

6 BBUSA hereby incorporates the above General Objections as if stated herein in full.
7 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
8 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
9 reasonably calculated to lead to the discovery of admissible evidence in this action because this
10 request is not limited in scope or time. BBUSA also objects to this Request on the grounds that it
11 seeks confidential, proprietary and/or privileged documents protected from disclosure by various
12 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
13 produce such privileged documents. Subject to and without waiving the foregoing objections,
14 BBUSA responds that it will produce all unprivileged documents responsive to this request that
15 relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at
16 issue in this litigation.

17 **REQUEST NO. 22:**

18 All documents related to the use of added coloring in Bimbo Original Toasted Bread or
19 any products listed in paragraph 198 of the SAC.

20 **RESPONSE TO REQUEST NO. 22:**

21 BBUSA hereby incorporates the above General Objections as if stated herein in full.
22 BBUSA further objects that this Request is vague, ambiguous, overbroad and unduly burdensome
23 and seeks documents that are neither relevant to the subject matter of the pending litigation nor
24 reasonably calculated to lead to the discovery of admissible evidence in this action because it is
25 not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks
26 confidential, proprietary and/or privileged documents protected from disclosure by various
27 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
28 produce such privileged documents. Subject to and without waiving the foregoing objections,

1 BBUSA responds that it will produce all unprivileged documents responsive to this request that
2 relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at
3 issue in this litigation.

4 **REQUEST NO. 23:**

5 All documents pertaining to the issue of whether Bimbo Original Toasted Bread is bread.

6 **RESPONSE TO REQUEST NO. 23:**

7 BBUSA hereby incorporates the above General Objections as if stated herein in full.
8 BBUSA further objects that this Request is vague, ambiguous, unintelligible, overbroad and
9 unduly burdensome and seeks documents that are neither relevant to the subject matter of the
10 pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this
11 action. The Request does not define “bread” and is unlimited in scope and time. BBUSA also
12 objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged
13 documents protected from disclosure by various privileges, including the attorney-client and
14 attorney work product privileges. Subject to and without waiving the foregoing objections,
15 BBUSA responds that there are no unprivileged documents in its possession, custody or control
16 that are responsive to this Request.

17 **REQUEST NO. 24:**

18 Documents sufficient to show all labeling or packaging and all changes or variations in the
19 labeling or packaging of the Purchased Products and the Substantially Similar Products over the
20 past six years.

21 **RESPONSE TO REQUEST NO. 24:**

22 BBUSA hereby incorporates the above General Objections as if stated herein in full.
23 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
24 burdensome and seeks documents that are neither relevant to the subject matter of the pending
25 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action
26 because it is not sufficiently limited in scope and the phrase “all changes or variations in the
27 labeling or packaging” is not defined. BBUSA also objects to this Request on the grounds that it
28 seeks confidential, proprietary and/or privileged documents protected from disclosure by various

1 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
2 produce such privileged documents. Subject to and without waiving the foregoing objections,
3 BBUSA responds that it will produce the labels responsive to this request that relate to the
4 products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this
5 litigation.

6 **REQUEST NO. 25:**

7 Documents sufficient to show all differences between the labels and packaging of
8 Purchased Products or the Substantially Similar Products sold in California and labels and
9 packaging of Purchased Products sold in other states since the beginning of the Class Period.

10 **RESPONSE TO REQUEST NO. 25:**

11 BBUSA hereby incorporates the above General Objections as if stated herein in full.
12 BBUSA further objects that this Request is vague, ambiguous and unintelligible. Because the
13 Request instructs that “and” means “or” and “or” means “and,” it is unclear which products the
14 plaintiffs seek to compare. In addition, this Request seeks information that is not relevant nor
15 reasonably calculated to lead to the discovery of admissible evidence.

16 **REQUEST NO. 26:**

17 Documents sufficient to show the total sales of, revenues from, and profits from sales of
18 each Purchased Product and Substantially Similar Product in California during the Class Period.

19 **RESPONSE TO REQUEST NO. 26:**

20 BBUSA hereby incorporates the above General Objections as if stated herein in full.
21 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
22 burdensome and seeks documents that are neither relevant to the subject matter of the pending
23 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action
24 because this Request is not limited in scope of time. BBUSA also objects to this Request on the
25 grounds that it seeks confidential, proprietary and/or privileged documents protected from
26 disclosure by various privileges, including the attorney-client and attorney work product
27 privileges. BBUSA will not produce such privileged documents. Finally, BBUSA objects to this
28 Request on the grounds that it is premature.

REQUEST NO. 27:

Documents sufficient to show the total sales of, revenues from, and profits from sales of each Purchased Product and Substantially Similar Product in the United States during the Class Period.

RESPONSE TO REQUEST NO. 27:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Finally, BBUSA objects to this Request on the grounds that it is premature.

REQUEST NO. 28:

Documents sufficient to show the wholesale prices in California of each Purchased Product and Substantially Similar Product during the Class Period.

RESPONSE TO REQUEST NO. 28:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents.

REQUEST NO. 29:

Documents sufficient to show the wholesale prices in the United States of each Purchased Product and Substantially Similar Product during the Class Period.

RESPONSE TO REQUEST NO. 29:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.

BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents.

REQUEST NO. 30:

Documents sufficient to show the retail prices and suggested retail prices in California of each Purchased Product and Substantially Similar Product during the Class Period.

RESPONSE TO REQUEST NO. 30:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.

BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents.

Finally, BBUSA objects that the documents sought be this Request are as readily available to plaintiffs as they are to BBUSA. Subject to and without waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in its possession, custody or control that are responsive to this Request.

REQUEST NO. 31:

Documents sufficient to show the retail prices and suggested retail prices in the United States of each Purchased Product and Substantially Similar Product during the Class Period.

RESPONSE TO REQUEST NO. 31:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

1 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
2 burdensome and seeks documents that are neither relevant to the subject matter of the pending
3 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
4 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
5 privileged documents protected from disclosure by various privileges, including the attorney-
6 client and attorney work product privileges. BBUSA will not produce such privileged documents.
7 Finally, BBUSA objects that the documents sought be this Request are as readily available to
8 plaintiffs as they are to BBUSA. Subject to and without waiving the foregoing objections,
9 BBUSA responds that there are no unprivileged documents in its possession, custody or control
10 that are responsive to this Request.

11 **REQUEST NO. 32:**

12 All consumer and marketing surveys, research, or analysis pertaining to any of the
13 Purchased Products or the Substantially Similar Products (whether or not created by Bimbo or a
14 Third Party).

15 **RESPONSE TO REQUEST NO. 32:**

16 BBUSA hereby incorporates the above General Objections as if stated herein in full.
17 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
18 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
19 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
20 evidence in this action. This Request is not limited in scope or time and it is unclear what is
21 meant by “whether or not created by Bimbo or a third party.” BBUSA also objects to this
22 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
23 protected from disclosure by various privileges, including the attorney-client and attorney work
24 product privileges. BBUSA will not produce such privileged documents. Subject to and without
25 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
26 documents responsive to this Request that relate to the products during the Class Period allegedly
27 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.
28

REQUEST NO. 33:

All consumer and marketing surveys, research, or analysis pertaining to the use of the phrase “100% Whole Wheat” on products (whether or not created by Bimbo or a Third Party).

RESPONSE TO REQUEST NO. 33:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. This Request is not limited in scope or time and it is unclear what is meant by “whether or not created by Bimbo or a third party.” BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents responsive to this Request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

REQUEST NO. 34:

All consumer and marketing surveys, research, or analysis pertaining to statements that a product is a “good source” or “excellent source” of whole grain or whole grains (whether or not created by Bimbo or a Third Party).

RESPONSE TO REQUEST NO. 34:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. This Request is not limited in scope or time and it is unclear what is meant by “whether or not created by Bimbo or a third party.” BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents

1 protected from disclosure by various privileges, including the attorney-client and attorney work
2 product privileges. BBUSA will not produce such privileged documents. Subject to and without
3 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
4 documents responsive to this Request that relate to the products during the Class Period allegedly
5 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

6 **REQUEST NO. 35:**

7 All consumer and marketing surveys, research, or analysis on the use of the Heart Check
8 Mark on products (whether or not created by Bimbo or a Third Party).

9 **RESPONSE TO REQUEST NO. 35:**

10 BBUSA hereby incorporates the above General Objections as if stated herein in full.
11 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
12 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
13 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
14 evidence in this action. This Request is not limited in scope or time and it is unclear what is
15 meant by “whether or not created by Bimbo or a third party.” BBUSA also objects to this
16 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
17 protected from disclosure by various privileges, including the attorney-client and attorney work
18 product privileges. BBUSA will not produce such privileged documents. Subject to and without
19 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
20 documents responsive to this Request that relate to the products during the Class Period allegedly
21 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

22 **REQUEST NO. 36:**

23 All consumer and marketing surveys, research, or analysis pertaining to statements that a
24 product is “fresh,” “baked daily,” or “baked fresh daily” (whether or not created by Bimbo or a
25 Third Party).

26 **RESPONSE TO REQUEST NO. 36:**

27 BBUSA hereby incorporates the above General Objections as if stated herein in full.
28 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,

1 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
2 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
3 evidence in this action. This Request is not limited in scope or time and it is unclear what is
4 meant by “whether or not created by Bimbo or a third party.” BBUSA also objects to this
5 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
6 protected from disclosure by various privileges, including the attorney-client and attorney work
7 product privileges. BBUSA will not produce such privileged documents. Subject to and without
8 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
9 documents responsive to this Request that relate to the products during the Class Period allegedly
10 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

11 **REQUEST NO. 37:**

12 All consumer and marketing surveys, research, or analysis pertaining to statements that a
13 product is an “excellent source” of fiber (whether or not created by Bimbo or a Third Party).

14 **RESPONSE TO REQUEST NO. 37:**

15 BBUSA hereby incorporates the above General Objections as if stated herein in full.
16 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
17 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
18 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
19 evidence in this action. This Request is not limited in scope or time and it is unclear what is
20 meant by “whether or not created by Bimbo or a third party.” BBUSA also objects to this
21 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
22 protected from disclosure by various privileges, including the attorney-client and attorney work
23 product privileges. BBUSA will not produce such privileged documents. Subject to and without
24 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
25 documents responsive to this Request that relate to the products during the Class Period allegedly
26 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

27 **REQUEST NO. 38:**

28 All consumer and marketing surveys, research, or analysis pertaining to the sale of food

1 products to health-conscious consumers (whether or not created by Bimbo or a Third Party).

2 **RESPONSE TO REQUEST NO. 38:**

3 BBUSA hereby incorporates the above General Objections as if stated herein in full.
4 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
5 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
6 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
7 evidence in this action. This Request is not limited in scope or time and it is unclear what is
8 meant by "whether or not created by Bimbo or a third party." BBUSA also objects to this
9 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
10 protected from disclosure by various privileges, including the attorney-client and attorney work
11 product privileges. BBUSA will not produce such privileged documents. Subject to and without
12 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
13 documents responsive to this Request that relate to the products during the Class Period allegedly
14 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

15 **REQUEST NO. 39:**

16 All documents relating to the compliance or non-compliance of Purchased Products or
17 Substantially Similar Products with labelling requirements of the FDCA, FDA regulations, or the
18 Sherman Law.

19 **RESPONSE TO REQUEST NO. 39:**

20 BBUSA hereby incorporates the above General Objections as if stated herein in full.
21 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
22 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
23 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
24 evidence in this action because this Request is not limited in scope or time. This Request is also
25 duplicative of Requests No. 4 and No. 5. BBUSA also objects to this Request on the grounds that
26 it seeks confidential, proprietary and/or privileged documents protected from disclosure by
27 various privileges, including the attorney-client and attorney work product privileges. BBUSA
28 will not produce such privileged documents. Subject to and without waiving the foregoing

1 objections, BBUSA responds that it will produce all unprivileged documents responsive to this
2 Request that relate to the products during the Class Period allegedly purchased by the plaintiffs
3 that are still at issue in this litigation, if any such documents exist.

4 **REQUEST NO. 40:**

5 All communications to and from consultants, experts, or specialists in the area of food
6 labelling requirements (whether or not employed by Bimbo).

7 **RESPONSE TO REQUEST NO. 40:**

8 BBUSA hereby incorporates the above General Objections as if stated herein in full.
9 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
10 burdensome and seeks documents that are neither relevant to the subject matter of the pending
11 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
12 This Request is not limited in scope or time and does not define "consultants, experts or
13 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
14 proprietary and/or privileged documents protected from disclosure by various privileges,
15 including the attorney-client and attorney work product privileges. BBUSA will not produce such
16 privileged documents.

17 **REQUEST NO. 41:**

18 All communications to and from consultants, experts, or specialists in the area of food
19 labelling requirements (whether or not employed by Bimbo) that pertain to the Purchased
20 Products or the Substantially Similar Products.

21 **RESPONSE TO REQUEST NO. 41:**

22 BBUSA hereby incorporates the above General Objections as if stated herein in full.
23 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
24 burdensome and seeks documents that are neither relevant to the subject matter of the pending
25 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
26 This Request is not limited in scope or time and does not define "consultants, experts or
27 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
28 proprietary and/or privileged documents protected from disclosure by various privileges,

1 including the attorney-client and attorney work product privileges. BBUSA will not produce such
2 privileged documents.

3 **REQUEST NO. 42:**

4 All communications to and from consultants, experts, or specialists in the area of food
5 labelling requirements (whether or not employed by Bimbo) that pertain to the use of the Heart
6 Check Mark.

7 **RESPONSE TO REQUEST NO. 42:**

8 BBUSA hereby incorporates the above General Objections as if stated herein in full.
9 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
10 burdensome and seeks documents that are neither relevant to the subject matter of the pending
11 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
12 This Request is not limited in scope or time and does not define "consultants, experts or
13 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
14 proprietary and/or privileged documents protected from disclosure by various privileges,
15 including the attorney-client and attorney work product privileges. BBUSA will not produce such
16 privileged documents.

17 **REQUEST NO. 43:**

18 All communications to and from consultants, experts, or specialists in the area of food
19 labelling requirements (whether or not employed by Bimbo) that pertain to the use of the phrase
20 "100% Whole Wheat" on products.

21 **RESPONSE TO REQUEST NO. 43:**

22 BBUSA hereby incorporates the above General Objections as if stated herein in full.
23 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
24 burdensome and seeks documents that are neither relevant to the subject matter of the pending
25 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
26 This Request is not limited in scope or time and does not define "consultants, experts or
27 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
28 proprietary and/or privileged documents protected from disclosure by various privileges,

1 including the attorney-client and attorney work product privileges. BBUSA will not produce such
2 privileged documents.

3 **REQUEST NO. 44:**

4 All communications to and from consultants, experts, or specialists in the area of food
5 labelling requirements (whether or not employed by Bimbo) that pertain to the use of statements
6 that a product is a "good source" or "excellent source" of whole grain or whole grains.

7 **RESPONSE TO REQUEST NO. 44:**

8 BBUSA hereby incorporates the above General Objections as if stated herein in full.
9 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
10 burdensome and seeks documents that are neither relevant to the subject matter of the pending
11 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
12 This Request is not limited in scope or time and does not define "consultants, experts or
13 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
14 proprietary and/or privileged documents protected from disclosure by various privileges,
15 including the attorney-client and attorney work product privileges. BBUSA will not produce such
16 privileged documents.

17 **REQUEST NO. 45:**

18 All communications to and from consultants, experts, or specialists in the area of food
19 labelling requirements (whether or not employed by Bimbo) that pertain to the use of the phrases
20 "fresh," "baked daily," or "baked fresh daily" on food products.

21 **RESPONSE TO REQUEST NO. 45:**

22 BBUSA hereby incorporates the above General Objections as if stated herein in full.
23 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
24 burdensome and seeks documents that are neither relevant to the subject matter of the pending
25 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
26 This Request is not limited in scope or time and does not define "consultants, experts or
27 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
28 proprietary and/or privileged documents protected from disclosure by various privileges,

1 including the attorney-client and attorney work product privileges. BBUSA will not produce such
2 privileged documents.

3 **REQUEST NO. 46:**

4 All communications to and from consultants, experts, or specialists in the area of food
5 labelling requirements (whether or not employed by Bimbo) that pertain to the use of statements
6 that a product is an "excellent source" of fiber.

7 **RESPONSE TO REQUEST NO. 46:**

8 BBUSA hereby incorporates the above General Objections as if stated herein in full.
9 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
10 burdensome and seeks documents that are neither relevant to the subject matter of the pending
11 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
12 This Request is not limited in scope or time and does not define "consultants, experts or
13 specialists". BBUSA also objects to this Request on the grounds that it seeks confidential,
14 proprietary and/or privileged documents protected from disclosure by various privileges,
15 including the attorney-client and attorney work product privileges. BBUSA will not produce such
16 privileged documents.

17 **REQUEST NO. 47:**

18 All insurance agreements applicable to the claims asserted in the above-captioned action.

19 **RESPONSE TO REQUEST NO. 47:**

20 BBUSA hereby incorporates the above General Objections as if stated herein in full.
21 BBUSA further objects that this Request is vague, ambiguous, overbroad and calls for a legal
22 conclusion. Subject to and without waiving the foregoing objections, BBUSA responds that there
23 are no responsive documents in its possession, custody or control.

24 **REQUEST NO. 48:**

25 All joint-defense agreements with one or more other food manufacturers relating to
26 litigation of claims pertaining to the labeling or misbranding of food products.

27 **RESPONSE TO REQUEST NO. 48:**

28 BBUSA hereby incorporates the above General Objections as if stated herein in full.

1 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
2 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
3 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
4 evidence in this action because it is not limited in scope or time. BBUSA also objects to this
5 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
6 protected from disclosure by various privileges, including the attorney-client and attorney work
7 product privileges. BBUSA will not produce such privileged documents. Subject to and without
8 waiving any of the foregoing objections, BBUSA responds that there are no unprivileged
9 documents in its possession, custody or control that are responsive to this Request.

10 **REQUEST NO. 49:**

11 All other agreements with one or more other food manufacturers relating to litigation of
12 claims pertaining to the labeling or misbranding of food products.

13 **RESPONSE TO REQUEST NO. 49:**

14 BBUSA hereby incorporates the above General Objections as if stated herein in full.
15 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
16 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
17 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
18 evidence in this action because it is not limited in scope or time. BBUSA also objects to this
19 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
20 protected from disclosure by various privileges, including the attorney-client and attorney work
21 product privileges. BBUSA will not produce such privileged documents. Subject to and without
22 waiving any of the foregoing objections, BBUSA responds that there are no unprivileged
23 documents in its possession, custody or control that are responsive to this Request.

24 **REQUEST NO. 50:**

25 Documents sufficient to show when the phrase "100% whole wheat" was added to or
26 removed from labels or packages of Sara Lee Classic 100% Whole Wheat Bread, Sara Lee 100%
27 Whole Wheat Bread, and all products listed in paragraph 203 of the SAC.
28

1 **RESPONSE TO REQUEST NO. 50:**

2 BBUSA hereby incorporates the above General Objections as if stated herein in full.
3 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
4 burdensome and seeks documents that are neither relevant to the subject matter of the pending
5 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
6 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
7 privileged documents protected from disclosure by various privileges, including the attorney-
8 client and attorney work product privileges. BBUSA will not produce such privileged documents.
9 Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all
10 unprivileged documents responsive to this Request that relate to the products during the Class
11 Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such
12 documents exist.

13 **REQUEST NO. 51:**

14 Documents sufficient to show when the statements on Sara Lee Classic 100% Whole
15 Wheat Bread, Sara Lee 100% Whole Wheat Bread, Sara Lee Soft & Smooth Whole Wheat White
16 Bread, and Sara Lee Soft & Smooth Whole Wheat Bread that they are either a "good source" or
17 "excellent source" of whole grain or whole grains was either added to or removed from the labels
18 or packages of these products.

19 **RESPONSE TO REQUEST NO. 51:**

20 BBUSA hereby incorporates the above General Objections as if stated herein in full.
21 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
22 burdensome and seeks documents that are neither relevant to the subject matter of the pending
23 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
24 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
25 privileged documents protected from disclosure by various privileges, including the attorney-
26 client and attorney work product privileges. BBUSA will not produce such privileged documents.
27 Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all
28 unprivileged documents responsive to this Request that relate to the products during the Class

1 Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such
2 documents exist.

3 **REQUEST NO. 52:**

4 Documents sufficient to show when the statement on Thomas' Plain Bagel Thins that it is
5 an "excellent source" of fiber was either added to or removed from the labels or packages of that
6 product.

7 **RESPONSE TO REQUEST NO. 52:**

8 BBUSA hereby incorporates the above General Objections as if stated herein in full.
9 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
10 burdensome and seeks documents that are neither relevant to the subject matter of the pending
11 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
12 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
13 privileged documents protected from disclosure by various privileges, including the attorney-
14 client and attorney work product privileges. BBUSA will not produce such privileged documents.
15 Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all
16 unprivileged documents responsive to this Request, if any such documents exist.

17 **REQUEST NO. 53:**

18 Documents sufficient to show when the Heart Check Mark was either added to or
19 removed from labels or packages of Thomas' Plain Bagel Thins or any products listed in
20 paragraph 226 of the SAC.

21 **RESPONSE TO REQUEST NO. 53:**

22 BBUSA hereby incorporates the above General Objections as if stated herein in full.
23 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
24 burdensome and seeks documents that are neither relevant to the subject matter of the pending
25 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.
26 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
27 privileged documents protected from disclosure by various privileges, including the attorney-
28 client and attorney work product privileges. BBUSA will not produce such privileged documents.

1 Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all
2 unprivileged documents responsive to this Request that relate to the products during the Class
3 Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such
4 documents exist.

5 **REQUEST NO. 54:**

6 Documents sufficient to show when the statement that they are “fresh,” “baked daily,” or
7 “baked fresh daily” was either added to or removed from labels or packages of Entenmanns
8 Soft’ees or any products listed in paragraph 215 of the SAC.

9 **RESPONSE TO REQUEST NO. 54:**

10 BBUSA hereby incorporates the above General Objections as if stated herein in full.
11 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
12 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
13 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
14 evidence in this action. BBUSA also objects to this Request on the grounds that it seeks
15 confidential, proprietary and/or privileged documents protected from disclosure by various
16 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
17 produce such privileged documents. Subject to and without waiving the foregoing objections,
18 BBUSA responds that it will produce all unprivileged documents responsive to this Request that
19 relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at
20 issue in this litigation, if any such documents exist.

21 **REQUEST NO. 55:**

22 Documents sufficient to show when added coloring was either added to or removed from
23 the recipe for Bimbo Original Toasted Bread or any products listed in paragraph 198 of the SAC.

24 **RESPONSE TO REQUEST NO. 55:**

25 BBUSA hereby incorporates the above General Objections as if stated herein in full.
26 BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly
27 burdensome and seeks documents that are neither relevant to the subject matter of the pending
28 litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action.

1 BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or
2 privileged documents protected from disclosure by various privileges, including the attorney-
3 client and attorney work product privileges. BBUSA will not produce such privileged documents.
4 Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all
5 unprivileged documents responsive to this Request that relate to the products during the Class
6 Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such
7 documents exist.

8 **REQUEST NO. 56:**

9 All sales, revenue, or pricing data for the Class Period relating to the Purchased Products
10 or Substantially Similar Documents that were provided to Nielsen, Information Resources Inc., or
11 other subscription services specializing in collecting such data.

12 **RESPONSE TO REQUEST NO. 56:**

13 BBUSA hereby incorporates the above General Objections as if stated herein in full.
14 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
15 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
16 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
17 evidence in this action. BBUSA also objects to this Request on the grounds that it seeks
18 confidential, proprietary and/or privileged documents protected from disclosure by various
19 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
20 produce such privileged documents. Subject to and without waiving the foregoing objections,
21 BBUSA responds that there are no documents in its possession, custody or control that are
22 responsive to this Request.

23 **REQUEST NO. 57:**

24 Documents sufficient to show all SKU numbers of the Purchased Products and the
25 Substantially Similar Products during the Class Period.

26 **RESPONSE TO REQUEST NO. 57:**

27 BBUSA hereby incorporates the above General Objections as if stated herein in full.
28 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,

1 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
2 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
3 evidence in this action. BBUSA also objects to this Request on the grounds that it seeks
4 confidential, proprietary and/or privileged documents protected from disclosure by various
5 privileges, including the attorney-client and attorney work product privileges. BBUSA will not
6 produce such privileged documents. Subject to and without waiving the foregoing objections,
7 BBUSA responds that it will produce a chart of SKU numbers for products during the Class
8 Period allegedly purchased by the plaintiffs that are still at issue in this litigation.

9 **REQUEST NO. 58:**

10 All documents relating to the actual, potential, estimated, or expected differences between
11 the prices of products that contain the Heart Check Mark and the prices of products that do not
12 contain the Heart Check Mark.

13 **RESPONSE TO REQUEST NO. 58:**

14 BBUSA hereby incorporates the above General Objections as if stated herein in full.
15 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
16 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
17 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
18 evidence in this action because this Request is not limited in scope or time. BBUSA also objects
19 to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents
20 protected from disclosure by various privileges, including the attorney-client and attorney work
21 product privileges. BBUSA will not produce such privileged documents. Subject to and without
22 waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in
23 its possession, custody or control that are responsive to this Request.

24 **REQUEST NO. 59:**

25 All documents relating to the actual, potential, estimated, or expected differences between
26 the prices of products that contain the statement "100% whole wheat" and the prices of products
27 that do not contain such a statement.
28

RESPONSE TO REQUEST NO. 59:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because this Request is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in its possession, custody or control that are responsive to this Request.

REQUEST NO. 60:

All documents relating to the actual, potential, estimated, or expected differences between the prices of products that contain the statement that they are either a "good source" or "excellent source" of whole grain or whole grains and the prices of products that do not contain such a statement.

RESPONSE TO REQUEST NO. 60:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because this Request is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in its possession, custody or control that are responsive to this Request.

REQUEST NO. 61:

All documents relating to the actual, potential, estimated, or expected differences between the prices of products that contain the statement that they are “fresh,” “baked daily,” or “baked fresh daily” and the prices of products that do not contain such a statement.

RESPONSE TO REQUEST NO. 61:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because this Request is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in its possession, custody or control that are responsive to this Request.

REQUEST NO. 62:

All documents relating to the actual, potential, estimated, or expected differences between the prices of Bimbo Original Toasted Bread, the products listed in paragraph 198 of the SAC or similar products if they contain added coloring and the prices of those products if they do not contain added coloring.

RESPONSE TO REQUEST NO. 62:

BBUSA hereby incorporates the above General Objections as if stated herein in full. BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action because this Request is not limited in scope or time. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work

1 product privileges. BBUSA will not produce such privileged documents. Subject to and without
 2 waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in
 3 its possession, custody or control that are responsive to this Request.

4 **REQUEST NO. 63:**

5 All documents relating to the actual, potential, estimated, or expected differences between
 6 the prices of products that contain the statement that they are an “excellent source of fiber” or and
 7 the prices of products that contain the statement that they are a “good source of fiber.”

8 **RESPONSE TO REQUEST NO. 63:**

9 BBUSA hereby incorporates the above General Objections as if stated herein in full.
 10 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
 11 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
 12 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
 13 evidence in this action because this Request is not limited in scope or time. BBUSA also objects
 14 to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents
 15 protected from disclosure by various privileges, including the attorney-client and attorney work
 16 product privileges. BBUSA will not produce such privileged documents. Subject to and without
 17 waiving the foregoing objections, BBUSA responds that there are no unprivileged documents in
 18 its possession, custody or control that are responsive to this Request.

19 **REQUEST NO. 64:**

20 All documents relating to the actual, potential, estimated, or expected differences between
 21 consumer interest in or purchases of products that contain the Heart Check Mark and consumer
 22 interest in or purchases of products that do not contain the Heart Check Mark.

23 **RESPONSE TO REQUEST NO. 64:**

24 BBUSA hereby incorporates the above General Objections as if stated herein in full.
 25 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
 26 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
 27 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
 28 evidence in this action. This Request is not limited in scope or time and does not define

1 “differences between consumer interest in or purchases or products”. BBUSA also objects to this
2 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
3 protected from disclosure by various privileges, including the attorney-client and attorney work
4 product privileges. BBUSA will not produce such privileged documents. Subject to and without
5 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
6 documents responsive to this Request that relate to the products during the Class Period allegedly
7 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

8 **REQUEST NO. 65:**

9 All documents relating to the actual, potential, estimated, or expected differences between
10 consumer interest in or purchases of products that contain the statement “100% whole wheat” and
11 consumer interest in or purchases of products that do not contain such a statement.

12 **RESPONSE TO REQUEST NO. 65:**

13 BBUSA hereby incorporates the above General Objections as if stated herein in full.
14 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
15 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
16 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
17 evidence in this action. This Request is not limited in scope or time and does not define
18 “differences between consumer interest in or purchases or products”. BBUSA also objects to this
19 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
20 protected from disclosure by various privileges, including the attorney-client and attorney work
21 product privileges. BBUSA will not produce such privileged documents. Subject to and without
22 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
23 documents responsive to this Request that relate to the products during the Class Period allegedly
24 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

25 **REQUEST NO. 66:**

26 All documents relating to the actual, potential, estimated, or expected differences between
27 consumer interest in or purchases of products that contain the statement that they are either a
28 “good source” or “excellent source” of whole grain or whole grains and consumer interest in or

1 purchases of products that do not contain such a statement.

2 **RESPONSE TO REQUEST NO. 66:**

3 BBUSA hereby incorporates the above General Objections as if stated herein in full.
4 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
5 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
6 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
7 evidence in this action. This Request is not limited in scope or time and does not define
8 “differences between consumer interest in or purchases or products”. BBUSA also objects to this
9 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
10 protected from disclosure by various privileges, including the attorney-client and attorney work
11 product privileges. BBUSA will not produce such privileged documents. Subject to and without
12 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
13 documents responsive to this Request that relate to the products during the Class Period allegedly
14 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

15 **REQUEST NO. 67:**

16 All documents relating to the actual, potential, estimated, or expected differences between
17 consumer interest in or purchases of products that contain the statement that they are “fresh,”
18 “baked daily,” or “baked fresh daily” and consumer interest in or purchases of products that do
19 not contain such a statement.

20 **RESPONSE TO REQUEST NO. 67:**

21 BBUSA hereby incorporates the above General Objections as if stated herein in full.
22 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
23 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
24 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
25 evidence in this action. This Request is not limited in scope or time and does not define
26 “differences between consumer interest in or purchases or products”. BBUSA also objects to this
27 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
28 protected from disclosure by various privileges, including the attorney-client and attorney work

1 product privileges. BBUSA will not produce such privileged documents. Subject to and without
 2 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
 3 documents responsive to this Request that relate to the products during the Class Period allegedly
 4 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

5 **REQUEST NO. 68:**

6 All documents relating to the actual, potential, estimated, or expected differences between
 7 consumer interest in or purchases of Bimbo Original Toasted Bread, the products listed in
 8 paragraph 198 of the SAC or similar products if they contain added coloring and consumer
 9 interest in or purchases of those products if they do not contain added coloring.

10 **RESPONSE TO REQUEST NO. 68:**

11 BBUSA hereby incorporates the above General Objections as if stated herein in full.
 12 BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible,
 13 overbroad and unduly burdensome and seeks documents that are neither relevant to the subject
 14 matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible
 15 evidence in this action. This Request is not limited in scope or time and does not define
 16 “differences between consumer interest in or purchases or products”. BBUSA also objects to this
 17 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
 18 protected from disclosure by various privileges, including the attorney-client and attorney work
 19 product privileges. BBUSA will not produce such privileged documents. Subject to and without
 20 waiving the foregoing objections, BBUSA responds that it will produce all unprivileged
 21 documents responsive to this Request that relate to the products during the Class Period allegedly
 22 purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

23 **REQUEST FOR PRODUCTION OF DOCUMENTS NO. 69**

24 All documents relating to the actual, potential, estimated, or expected differences between
 25 consumer interest in or purchases of products that contain the statement that they are an “excellent
 26 source of fiber” or and consumer interest in or purchases of products that contain the statement
 27 that they are a “good source of fiber.”
 28

RESPONSE TO REQUEST NO. 69:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. This Request is not limited in scope or time and does not define “differences between consumer interest in or purchases or products”. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. BBUSA will not produce such privileged documents. Subject to and without waiving the foregoing objections, BBUSA responds that it will produce all unprivileged documents responsive to this Request that relate to the products during the Class Period allegedly purchased by the plaintiffs that are still at issue in this litigation, if any such documents exist.

REQUEST NO. 70:

Documents sufficient to show the total sales and retail prices of each Purchased Product and Substantially Similar Product at each supermarket chain and non-supermarket retailer chain with large grocery sections (e.g., Walmart, Target) in California during the Class Period.

RESPONSE TO REQUEST NO. 70:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is duplicative of Requests Nos. 26, 28 and 30, and refers to BBUSA’s objections and responses to those Requests, which are fully incorporated herein by this reference. Subject to and without waiving these objections, BBUSA responds that there are no documents in its possession, custody or control responsive to this Request.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 71

Documents sufficient to show the total sales and retail prices of each Purchased Product and Substantially Similar Product at each supermarket chain and non-supermarket retailer chain with large grocery sections (e.g., Walmart, Target) in the United States during the Class Period.

RESPONSE TO REQUEST NO. 71

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is duplicative of Requests Nos. 26, 28 and 30, and refers to BBUSA's objections and responses to those Requests, which are fully incorporated herein by this reference. Subject to and without waiving these objections, BBUSA responds that there are no documents in its possession, custody or control responsive to this Request.

REQUEST NO. 72:

Documents sufficient to identify all Bimbo officers, employees, agents, and contractors responsible for compliance with food labelling requirements of the FDCA, FDA regulations, and the Sherman Law.

RESPONSE TO REQUEST NO. 72:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, compound, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. BBUSA also objects to this Request on the grounds that it seeks confidential, proprietary and/or privileged documents protected from disclosure by various privileges, including the attorney-client and attorney work product privileges. Subject to and without waiving the foregoing objections, BBUSA responds that it will provide an organizational chart.

REQUEST NO. 73:

All documents relating to the difference in pricing between each Purchased Product and Substantially Similar Product and competing products during the Class Period.

RESPONSE TO REQUEST NO. 73:

BBUSA hereby incorporates the above General Objections as if stated herein in full.

BBUSA further objects that this Request is vague, ambiguous, compound, unintelligible, overbroad and unduly burdensome and seeks documents that are neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of admissible evidence in this action. This Request is not limited in scope and time and would require the

1 productions of virtually every document in BBUSA's possession. BBUSA also objects to this
 2 Request on the grounds that it seeks confidential, proprietary and/or privileged documents
 3 protected from disclosure by various privileges, including the attorney-client and attorney work
 4 product privileges. BBUSA will not produce such privileged documents.

5 **REQUEST NO. 74:**

6 All documents that relate to, support, or refute any defenses Bimbo may have.

7 **RESPONSE TO REQUEST NO. 74:**

8 BBUSA hereby incorporates the above General Objections as if stated herein in full.
 9 BBUSA further objects that this Request seeks confidential, proprietary and/or privileged
 10 documents protected from disclosure by various privileges, including the attorney-client and work
 11 product privileges. In addition, BBUSA objects that this Request is premature, as BBUSA has not
 12 yet asserted any defenses in this litigation, and fails to describe the documents it seeks with
 13 reasonable particularity and, for that reason, this Request is fatally vague and ambiguous.

14 **REQUEST NO. 75:**

15 Any other documents that relate to the issues, facts, claims, or defenses raised in the
 16 above-captioned action.

17 **RESPONSE TO REQUEST NO. 75:**

18 BBUSA hereby incorporates the above General Objections as if stated herein in full.
 19 BBUSA further objects that this Request seeks confidential, proprietary and/or privileged
 20 documents protected from disclosure by various privileges, including the attorney-client and work
 21 product privileges. In addition, BBUSA objects that this Request fails to describe the documents
 22 it seeks with reasonable particularity and, for that reason, this Request is fatally vague, ambiguous
 23 and overbroad.

24 Dated: March 7, 2014

HOGAN LOVELLS US LLP

26 By: /s/ Mark C. Goodman
 27 Mark C. Goodman
 Attorneys for Defendant
 28 Bimbo Bakeries USA, Inc.

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to this action. My business address is Hogan Lovells US LLP, 1999 Avenue of the Stars, Suite 1400, Los Angeles, CA 90067.

On March 7, 2014, I caused the foregoing document described as: RESPONSE OF DEFENDANT BIMBO BAKERIES USA, INC. TO PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS to be served on the interested parties in this action as follows:

Ananda N. Chaudhuri
Keith M. Fleischman
Bradley F. Silverman
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Ben F. Pierce Gore
Pratt & Associates
1871 The Alameda, Suite 425
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T: 408-369-0800
pgore@prattattorneys.com

☒ **BY U.S. MAIL.** I sealed said envelope and placed it for collection and mailing following ordinary business practices, by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth above.

☒ **BY E-MAIL.** I served such document(s) in PDF format to the e-mail address(es) indicated above following ordinary business practices.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the individuals listed below

☐ **BY OVERNIGHT SERVICE.** I caused such document to be delivered by overnight mail to the offices listed below by placing it for collection by UPS / Federal Express following ordinary business practices by my firm, to wit, that packages will either be picked up from my firm by UPS / Federal Express and/or delivered by my firm to the UPS / Federal Express office:

☐ **(State)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on _____ at Los Angeles, California.

☒ **(Federal)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on March 7, 2014, at Los Angeles, California.

Gwendolyn Santini
Print Name

Signature

